

05 - 609

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

ORIGINAL

United States District Court

District
Delaware

Name

Robert W. Hassett 3rd.

Prisoner No.

337363

Case No.

Place of Confinement

Sussex Correctional Institution

Name of Petitioner (include name under which convicted)

Name of Respondent (authorized person having custody of petitioner)

Robert W. Hassett 3rd.

V. Richard Kearney, Warden

The Attorney General of the State of:

Delaware

PETITION

1. Name and location of court which entered the judgment of conviction under attack Superior Court
Sussex County, Delaware
2. Date of judgement of conviction June 21, 2001
3. Length of sentence Natural life plus 20 years.
4. Nature of offense involved (all counts) Murder 1st degree, Possession
of a deadly weapon during the commission
of a felony.

5. What was your plea? (Check one)

- (a) Not guilty ☒
- (b) Guilty ☐
- (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

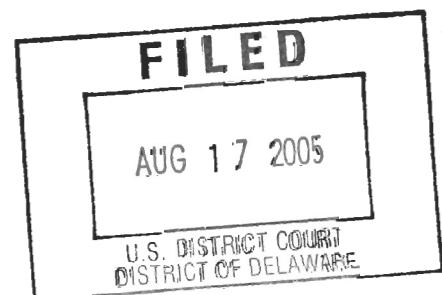
6. If you pleaded not guilty, what kind of trial did you have? (Check one)

- (a) Jury ☒
- (b) Judge only ☐

7. Did you testify at the trial?

Yes ☒ No ☐

8. Did you appeal from the judgement of conviction?

Yes ☒ No ☐

AO 241 (Rev. 5/85)

9. If you did appeal, answer the following:

- (a) Name of court Supreme court of Delaware
- (b) Result Affirmed conviction of superior court.
- (c) Date of result and citation, if known May 15, 2002, case No. 420, 2001.
- (d) Grounds raised The trial court abused it's discretion in only granting a cautionary instruction.

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court Superior Court of Delaware
- (2) Nature of proceeding Filed a rule 1a1 post-conviction motion.
- (3) Grounds raised Ineffective assistance of counsel, Trial court error, Prosecutor misconduct, police misconduct.

AO 241 (Rev. 5/85)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒(5) Result rule 61 motion was denied.(6) Date of result August 25, 2003

(b) As to any second petition, application or motion give the same information:

(1) Name of court Supreme court of Delaware(2) Nature of proceeding The case was remanded to superior court for ineffective counsel, for further review.(3) Grounds raised Ineffective assistance of counsel; Trial court error; Prosecutor misconduct; Police misconduct.

(4) Did you receive any evidentiary hearing on your petition, application or motion?

Yes ☒ No ☐(5) Result Appeal was denied.(6) Date of result June 24, 2005.

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐(2) Second petition, etc. Yes ☒ No ☐

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Supreme Court denied it's discretion when it denied defendants appeal on prosecutor misconduct.

Supporting FACTS (state briefly without citing cases or law) Supreme Courts decision to deny petitioners appeal on prosecutor misconduct arguments (A & B) were not only a violation of his 14th amendment. But also deprived the petitioner equal protection of the law. (see: Brief in support; attached)

B. Ground two: Supreme Court abused it's discretion in denying appellants appeal on ineffective counsel.

Supporting FACTS (state briefly without citing cases or law) The defendant was denied effective assistance of counsel throughout his trial. The defendant was not able to gain material to show counsels ineffectiveness until this appeal in supreme court. The supreme court violated the petitioners 6th and 14th amendment in it's denial. (see: Brief in support; attached)

AO 241 (Rev. 5/85)

- C. Ground three: Supreme court abused it's discretion when it denied appellants appeal on Trial court error.

Supporting FACTS (state *briefly* without citing cases or law) The supreme court violated the defendants 14th amendment in denying appellants appeal, or trial court error. Thereby abusing there discretion and committing error. (see: Brief in support; attached)

- D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of these grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgement under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Ronald Phillips, address N/A

(b) At arraignment and plea Thomas Barnett, 512 E. Market St. Georgetown, Del. 19947

AO 241 (Rev. 5/85)

- (c) At trial Thomas Barnett, 512 E. market St.
Georgetown, Del. 19947
- (d) At sentencing Thomas Barnett, 512 E. market St
Georgetown, Del. 19947
- (e) On appeal Thomas Barnett, 512 E. market St.
Georgetown, Del. 19947
- (f) In any post-conviction proceeding Pro se, Robert W. Hassett, P.O.
Box 500, Georgetown, Del. 19947
- (g) On appeal from any adverse ruling in a post-conviction proceeding Pro se, Robert W.
Hassett, P.O. Box 500, Georgetown, Del. 19947

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future: Superior
Court, Sussex County, Delaware.

(b) Give date and length of the above sentence: Aug, 10, 2001. To serve
2 years level 5 mandatory

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Robert W. Hassett Pro se
Signature of Attorney (if any)

I declare under penalty of perjury that the fore going is true and correct. Executed on

8-12-05
(date)

Robert W. Hassett
Signature of Petitioner

IM: Robert Russell BLDG. MSB-CU-B-tier
SUSSEX CORRECTIONAL INSTITUTION
P.O. BOX 500 SRF 337363
GEORGETOWN, DELAWARE 19947



Clerk of the U.S. District court
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Wilmington, Del.
19801

